

Notice of Allowability

Application No.

09/608,635

Examiner

Jeffrey A. Smith

Applicant(s)

SCHULLER, JOAN A.

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Appeal Brief filed 9/9/2004.
2. ☒ The allowed claim(s) is/are 6,7,9-12 and 20-22.
3. ☒ The drawings filed on 30 June 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

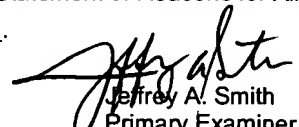
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Jeffrey A. Smith
Primary Examiner
Art Unit: 3625

Art Unit: 3625

STATUS OF THE CLAIMS

Appellant's Appeal Brief filed September 9, 2004 raises a question regarding the status of the claims. A review of the file reveals the following claim status:

Claims 1-5, and 13-16 were canceled by the Amendment filed August 20, 2002.

Claim 8 was canceled by the Amendment filed December 30, 2002.

Claims 17-19, and 23-25 were canceled by the Amendment filed October 3, 2003.

Claims 6, 7, 9-12, and 20-22 are pending and on appeal to the Board of Patent Appeals and Interferences.

STATUS OF THE APPEAL

Upon further consideration of the claims on appeal and in light of Appellant's arguments in support thereof the claims have been determined to be in condition for allowance. The allowed claims are 6, 7, 9-12, and 20-22.

Art Unit: 3625

REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

None of the prior art of record, when taken alone or in reasonable combination, teach the claimed invention as a whole in a manner so as to suggest the desirability of making the combination without the benefit of impermissible hindsight and with a reasonable expectation of success.

Regarding claim 6

The prior art of record neither anticipates nor fairly and reasonably teaches a networked computer system configured for commerce in chemical products, the system comprising, *inter alia*, a memory operatively coupled to a server and comprising instructions to configure the server to: send product information comprising a starting point formulation and chemical characteristics inherent to the starting point formulation to a client computer; receive a purchase order comprising a request to purchase a product identified by a product identifier and target characteristics input by a user; modify a starting point formulation based on the target characteristics input by the user; and process the purchase order, wherein the purchase order

Art Unit: 3625

comprises an order for purchase of a chemical product formulated in accordance with said modified starting point formulation.

Of particular interest are the references:

"Eastman Chemical Company: VerticalNet and Eastman Chemical Company announce joint venture to establish Internet marketplace to serve \$64 billion paint & coatings industry; Paint and Coatings.com inc. will become a new company", M2 Presswire, Coventry, Mar. 17, 2000, pg. 1 (hereafter "Eastman");

Beers et al.: "Solvents-continuing to evolve for the future", Pigment & Resin Technology, Bradford: 1998, Vol. 27, Iss. 5, pg. 289 (a discussion of the software package "BlendPro" and hereafter "BlendPro");

Tambay et al. (US Patent Application Publication No. US 2001/0037255 A1) (hereafter "Tambay"); and

Friel et al. (US Patent Application Publication No. US 2003/0110101 A1) (hereafter "Friel").

Eastman discloses "Paint and Coatings.com" which has become one of the leading web destinations for the paint and coatings industry. Paint and Coatings.com is an electronic marketplace which provides dynamic content, purposeful community, and transaction tools. The marketplace serves raw material

Art Unit: 3625

suppliers, distributors and manufacturers as well as paint and coating formulators and users. Eastman does not disclose a server configured to modify a starting point formulation based on target characteristics input by a user; and process a purchase order, wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with the modified starting point formulation.

BlendPro discloses a computer program--"BlendPro"--which uses a database of more than 180 different solvents, including water, and contains also a database of more than 30 solubility maps of commercially available resins. Physical properties such as density, flash point, evaporation time, viscosity and the solubility parameters HSP, HBI and FP of a given blend can be easily calculated. In order to reformulate solvent blends, the operator defines which properties are to be reformulated and which restrictions exist, i.e. which properties of this solvent blend are critical and which allow some degree of flexibility. The reformulation module of BlendPro can then calculate which solvent blend matches best the technical constraints at the lowest costs. BlendPro does not disclose a server configured to modify a starting point formulation based on target characteristics input by a user; and process a purchase order,

Art Unit: 3625

wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with said modified starting point formulation.

Tambay discloses an industry marketplace implemented through a web site--"PaintandCoatings.com"--for example [par. 0103]. The marketplace comprises a formulation calculator. A user first selects the type of product the user wishes to formulate. For example, the user may choose to formulate a polyester resin. The user then selects the formulation type to be created. Possible examples of a formulation type would be liquid, granular and emulsion. The user continues by selecting additional necessary ingredients. Once the user has selected all the necessary ingredients, the formulation calculator will display a formulation combining these ingredients according to generally accepted industry and product-specific standards. The result is presented to the user. See paragraph [0119]. Tambay additionally discloses commerce-enabling services for facilitating the procurement of goods and services for the industry. See paragraph [0124]. Tambay further discloses an intelligent purchasing assistant to increase the efficiencies of the commerce transactions on the web site. The purchasing agent serves to match a customer request to a supplier who can best

Art Unit: 3625

fulfill such request. See paragraphs [0131]-[0132]. Tambay does not disclose a server configured to modify a starting point formulation based on target characteristics input by the user; and process the purchase order, wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with said modified starting point formulation. Although Tambay teaches that a user selects product type, formulation type, and additional necessary ingredients, none of these selections are construed as constituting an input of target characteristics. Applicant offers examples of target characteristics at page 6 of the specification. Such target characteristics are of the type including binding and opacity properties (page 6, line 27-29). Applicant teaches that the target characteristics are compared to known characteristics such as adhesion properties, scuff resistance, fading characteristics, use environments, environmental characteristics, etc... (page 6, lines 5-8). The selections made in Tambay differ significantly from those of the instant invention. The selections made in Tambay, for example, require that the user know and select particular ingredients desired for use in the formulation, rather than know and select the characteristics desired of the formulation. Moreover, Tambay does not disclose an integration of the modified formulation and

Art Unit: 3625

the processing of a purchase order. Although, Tambay discloses presenting the result of a customer devised formulation to the user, Tambay does not disclose a server configured to process a purchase order, wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with a modified starting point formulation.

Friel discloses a computer system which receives paint selection input data that identifies a base paint to be produced. The selection input may be received over a network (such as the Internet) from a plurality of client computers. A graphical user interface allows a user to choose sheen levels, tint levels, use type, quality, and quantity. See par. [0022-0023]. A user may alternatively input a code for a specific paint from a chip sample card. See par. [0025]. A formulation of the base paint can be determined by querying a database. See par. [0025]. A base paint can then be produced using various permutations of prepaint ingredients. Friel, however, does not disclose that a server is configured to receive a purchase order comprising a request to purchase a product identified by a product identifier and target characteristics input by a user; and modify a starting point formulation based on the target characteristics input by the user. Instead, Friel teaches that a

Art Unit: 3625

base paint (product) is manufactured from a limited set of pre-paints. See par. [0017]. There is no teaching in Friel that a starting point formulation is identified and then modified based on target characteristics input by the user. Moreover, there is no teaching in Friel that a server is configured to send product information comprising a starting point formulation and chemical characteristics inherent to the starting point formulation to a client computer.

Regarding claim 20

The prior art of record neither anticipates nor fairly and reasonably teaches a method for processing a chemical product transaction, the method comprising, *inter alia*, sending chemical product data comprising a starting point formulation and chemical characteristics inherent to the starting point formulation to a client computer; modifying a starting point formulation based on target characteristics input by a user; and processing a purchase order, said purchase order comprising an order for purchase by the user of a chemical product formulated in accordance with said modified starting point formulation.

Of particular interest are the references:

"Eastman Chemical Company: VerticalNet and Eastman Chemical Company announce joint venture to establish Internet marketplace to serve \$64 billion paint & coatings industry; Paint and Coatings.com inc. will become a new company", M2 Presswire, Coventry, Mar. 17, 2000, pg. 1 (hereafter "Eastman");

Beers et al.: "Solvents-continuing to evolve for the future", Pigment & Resin Technology, Bradford: 1998, Vol. 27, Iss. 5, pg. 289 (a discussion of the software package "BlendPro" and hereafter "BlendPro");

Tambay et al. (US Patent Application Publication No. US 2001/0037255 A1) (hereafter "Tambay"); and

Friel et al. (US Patent Application Publication No. US 2003/0110101 A1) (hereafter "Friel").

Eastman does not disclose modifying a starting point formulation based on target characteristics input by a user; and processing a purchase order, wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with the modified starting point formulation.

BlendPro does not disclose modifying a starting point formulation based on target characteristics input by a user; and processing a purchase order, wherein the purchase order

Art Unit: 3625

comprises an order for purchase of a chemical product formulated in accordance with said modified starting point formulation.

Tambay does not disclose modifying a starting point formulation based on target characteristics input by the user; and processing a purchase order, wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with said modified starting point formulation. Although Tambay teaches that a user selects product type, formulation type, and additional necessary ingredients, none of these selections are construed as constituting an input of target characteristics. Applicant offers examples of target characteristics at page 6 of the specification. Such target characteristics are of the type including binding and opacity properties (page 6, line 27-29). Applicant teaches that the target characteristics are compared to known characteristics such as adhesion properties, scuff resistance, fading characteristics, use environments, environmental characteristics, etc... (page 6, lines 5-8). The selections made in Tambay differ significantly from those of the instant invention. The selections made in Tambay, for example, require that the user know and select particular ingredients desired for use in the formulation, rather than know and select the

Art Unit: 3625

characteristics desired of the formulation. Moreover, Tambay does not disclose an integration of the modified formulation and the processing of a purchase order. Although, Tambay discloses presenting the result of a customer devised formulation to the user, Tambay does not disclose processing a purchase order, wherein the purchase order comprises an order for purchase of a chemical product formulated in accordance with a modified starting point formulation.

Friel does not disclose receiving a purchase order comprising a request to purchase a chemical product; sending chemical product data comprising a starting point formulation and chemical characteristics inherent to the starting point formulation to a client computer; modifying the starting point formulation based on target characteristics input by a user; and processing a purchase order, said purchase order comprising an order for purchase by the user of a chemical product formulated in accordance with said modified starting point formulation. Instead, Friel teaches that a base paint (product) is manufactured from a limited set of pre-paints. See par. [0017]. There is no teaching in Friel that chemical product data comprising a starting point formulation and chemical characteristics inherent to the starting point formulation is

Art Unit: 3625

sent to a client computer. Further, there is no teaching in Friel that the starting point formulation is modified based on target characteristics input by a user.

CONCLUSION

Sakai et al. (JP 401161578 A) discloses a chemical material data base. When a designer inputs a desired characteristic, chemical structure formulas and characteristics are displayed. The designer can designate a partial structure to be substituted and a list of candidate substituents is displayed. The characteristic or estimated characteristic is displayed in comparison with the original structure is displayed.

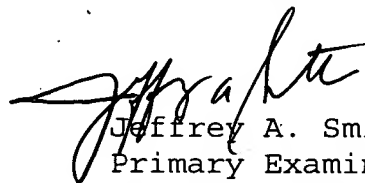
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Art Unit: 3625

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey A. Smith whose telephone number is 703-308-3588. The examiner can normally be reached on M-F 6:30am-6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jeffrey A. Smith
Primary Examiner
Art Unit 3625

jas